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ABSTRACT

This paper concentrates on the identification of the main trends that are visible from a librarian's perspective in the area of copyright management in the digital environment. The first section discusses the expansion of licensing, including reasons for this trend, standards for licenses, and collecting societies (i.e., societies that act on behalf of authors and other rights holders) in the digital environment. The second section addresses libraries as hosting/publishing services, including elements of copyright management, and preservation considerations. While stressing the importance of copyright issues, the conclusion is that management and ownership of digital collections, distributed all over the world, is the only way for libraries to survive and to have a chance to fulfill their mission in the digital environment. (MES)

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The Future of Copyright Management: Library Perspectives

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Abstract

This contribution to the workshop concentrates on the identification of the main trends which are visible from a librarian's perspective in the area of copyright management in the digital environment.

Two main developments are analysed:

- *the expansion of licensing and,*
- *libraries as hosting/publishing services.*

While stressing the importance of copyright issues, the final conclusion is that management and ownership of digital collections, distributed all over the world, is the only way for libraries to survive and to have a chance to fulfil their mission in the digital environment.

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Paper

Licensing is the Future

To start with, let me introduce this perhaps provocative statement. The growing expansion of licensing is unstoppable.

BEST COPY AVAILABLE

There are at least two clear reasons for this trend:

- the first one is that digital collections are steadily being built by the private sector, mainly rightsholders and specially producers,
- the second reason is that libraries are accepting and even welcoming this change of role: libraries acting as access facilitators instead of the former role as repositories.

There are exceptions, I know, nevertheless I think this is the trend.

Commercial publishers, and other information providers, are investing in digital collections, thus they need to put them into the market to get a return on these investments. They are in a large process of concentration of content through acquisitions and mergers.

And they are trying to get the full information chain on their hands, including software for delivery of content, reference databases, and the "retail" service, the on-demand service[1] .

Publishers are facing challenging times too. They receive pressure from authors who push them to publish digitally in order to achieve larger dissemination of their works. But publishers' business is radically changing from producers of multiple copies for selling to producers of a unique copy and distributors of tailored services.

Experimentation is an ongoing task for publishers regarding methods of distribution of digital content: by themselves, through aggregators, through linking between services. In some cases they target consortia, in other cases libraries, and even the end-user directly. Experimentation is overall, from pricing methods to technological protection measures.

In front of this bourgeoning movement, most libraries are behaving in a conservative way. They evaluate offers, they test, they accept and claim for access to publishers and aggregators servers, they promote this material. Libraries, specially university and research libraries, have to do this. Their users claim for access and they will get it, through the library or across the library.

But most of these libraries do not ask, do not wish to directly manage this digital content and they leave volunteers this task to producers and to other commercial intermediaries.

In this context, licensing is compulsory.

Standards for licenses will arise

Do not be afraid in front of so many negotiations as providers you used to deal with!

Standardized licenses are already arising through the mutual copying of terms and conditions by information providers. It is in the general interest of both the providers and their customers not to waste their time in administrative issues.

It is right now the moment when libraries need to be most careful about what they accept and what not. Because it is right now, in this phase of experimentation, when licenses are stabilising in certain formulae.

As librarians, we should not sign any license which does not grant our user

community the whole range of fair and reasonable uses this content is intended for. Let me enumerate: reading, browsing, copying for private use, printing for annotation.

The application of new technologies to information must not hinder the use of it, but on the contrary, it must facilitate this use by allowing access from any site to any authorised user.

In order to achieve the goal to be offered licenses which include all fair uses, librarians must be aware of their national copyright law, with its specific exceptions intended to keep the balance between the exclusive rights of the rightsholders and the public interest. Only by being aware, librarians will not accept any license which try to override what is granted by law.

Contract law must be driven by copyright law and not vice versa, but contracts are here to stay.

I will not deal with licenses in detail. Other contributions to the IFLA Conference have dealt with this. There are a number of guidelines for licensing available too.

Collecting societies in the digital environment

These societies which act on behalf of authors and the rest of rightsholders are correctly identifying a role for them in the digital environment. But, and this is my concern, they could be tempted to ask for compensation by use in any circumstance.

In my opinion, there are two cases in which this clearly does not apply:

- the first one, when licenses for collective use have already been agreed and paid for and,
- the second one, when authors are agreeing on free use.

Libraries as Hosting/Publishing Services

By taking on the role of a host or even of a publisher, the library must always take care of clearing copyright for content which is included in its collection.

Take a look at Internet. There are quite a lot of digital collections providing a kind of service that would feet perfectly with libraries goals. But these services are currently, very often, provided by researchers, or by various departments of institutions and corporations, and even by authors, themselves.

- on behalf of authors, be personnel or corporate

Libraries, in my opinion, have a clear role to play on behalf of authors and associations, for example, helping them to achieve wide dissemination of their works that are not prepared for proper publishing processes. Libraries could help building communities by offering their abilities in the management of information and their infrastructure as repository for it. These activities could have a relevant impact on cultural minorities, on small, isolated communities, on the dissemination of unknown authors.

Regarding grey literature - preprints, reports, etc -, which is important for research, and which was always managed with difficulties by libraries, researchers themselves are leading the discovery of efficient management

systems for their digital version. But researchers are interested in research and not in the maintenance of long-term services. If libraries fail to take them on, others will do.

The same applies to documentation of institutions and corporations, both intended for external and for internal use. It seems the library the natural "department" to take care of the service but in too many cases, the library is only considered to be a place and to deal with paper. This perception should be immediately corrected by proactivity of librarians.

But remember that in all theses cases, hosting or publishing on behalf of authors, associations or corporations, copyright must be cleared, permissions must be formally obtained and copyright notice must be evident to users.

- by digitising their own holdings

My second point is the digitisation of library own collections. Some libraries, specially national libraries, have already started this task with enthusiasm by participating in national and international programmes. For example, all these Memories of... America[2] , Russia[3] , the Gallica site[4] in France or the Biblioteca Virtual Miguel de Cervantes[5] in Spain.

These are usually part of preservation efforts and try to wider disseminate the cultural heritage of a nation. They are based on public domain documents, original documents, not in commercial, currently under copyright protection, new editions of those documents.

Other digitisation attempts address copyright protected works like the whole collections of journals. In this case, strong collaboration with publishers and their permission is a must[6] .

- in disseminating own library's information

And finally, in this set of issues, we can not forget that libraries are also producers of their own information in digital form. This information is also protected by copyright. For example, the library's web design or the guidelines it prepares. There must be a copyright policy even if this policy follows a "copyleft"[7] direction.

Elements for copyright management

As far as the management of copyright is concerned, it has some implications for the building of a digital library which I would like to highlight.

If a digital library has to serve a community of users, and to integrate the benefits of "digital" - meaning access from the place wished at the time of convenience -, then it must include the following items:

- authentication and authorisation possibilities,
- management of rights,
- management of privacy.

Authentication and authorisation systems are key points from where a library can enter into negotiations by defining itself as a user community, a community of identified users, and not a mere place.

It has been said in many occasions that public libraries have in many countries open stacks, so there is no defined community. But even in this case, when these libraries lend books to users, they identify users as borrowers. They could apply the same philosophy to remote access, for example.

This issue closely relates to privacy concerns which our users will perhaps arise in the very next future. Are we currently taking into account how online information services are dealing with the privacy of users which come to use their services through our signed contracts? Are we acting consciously when taking some contracts in which one condition tell us to forward log files to the publisher?

And finally, I will express it plainly. We are entering a phase in which we will deal with different kinds of communities, served by us, enjoying different privileges. Some of us are becoming "intermediaries" in some kind of commercial sense, by serving external, commercial users by way of contracts.

We are faced with the need to manage different kind of rights if we like to give service to external users, to third parties for whatever well-founded reason. We will even need to collect copyright fees and to pass them to rightsholders if we want to pursue our traditional Inter Library Loan transformed into Document Delivery services in the digital environment.

Preservation at risk

A very short remind on the topic of preservation. It is in big threaten, because libraries are withdrawing from collection building and, because strong technological measures of protection are being implemented by rightsholders.

Preservation in the digital environment means constant transformation, the ability to reformat and to transfer content in order to make it accessible. Without ownership, with hard concentration on a very small set of originals in producers hands, without tools to reverse protection measures, there is no possible preservation.

Conclusion

To finish with my whole presentation, I would like to ask librarians for an active engagement in the building of digital collections from commercial and from non-commercial sources.

The management and the ownership of these digital collections, distributed all over the world, is the only way for libraries to survive and to have a chance to fulfil their mission in the digital environment.

[1]Just take a look at the past three years evolution of such publishing groups as Reed Elsevier (http://www.reed-elsevier.com/), Wolters Kluwer (http://www.wolters-kluwer.com/), Bell & Howell (http://www.bellandhowell.com/) or Bertelsmann (http://www.bertelsmann.com/).

[2]American Memory (http://memory.loc.gov/).

[3]The first-printed slavic books of the XV-XVI centuries (http://sun450.agir.ru/memory/).

[4]Gallica (http://gallica.bnf.fr/).

[5]Biblioteca Virtual Miguel de Cervantes (http://cervantesvirtual.com/).

[6]JSTOR is perhaps the most brilliant example of libraries-publishers

collaboration in the digitisation of journals' backfiles. It has evolved into a not-for-profit organization. (http://www.jstor.org/).

[7]For an explanation of the copyleft concept, see the page of the Free Software Foundation, http://www.gnu.ai.mit.edu/copyleft/copyleft.html

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